**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 1021 OF 2005**

Uday alias Dadya Jaysing Dhavan ..Applicant.

V/s.

The State of Maharashtra .. Respondent.

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Shri S.A. Ingawale for the Applicant.
Shri A. S. Gadkari, APP for Respondent -State.

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**CORAM : A.M.KHANWILKAR, J.**
**DATED : FEBRUARY 21, 2005**

**PC :-**

. Heard the learned counsel for the parties. Perused the record.

2. The applicant is praying for bail on parity with co-accused -Dilawar Mulla, who has been released on bail by the lower court. The only objection taken on behalf of the State is that there are antecedents against the present applicant, as C.R.No. 128/2001 registered with Rajanagar Police Station, Kolhapur, is pending against the applicant and while on bail, he has committed the present offence. Ordinarily, if the accused has committed offence while on bail; the State would be justified in opposing the bail application and which contention will have to be accepted. However, in the present case, the

allegation of the applicant is that in fact the complainant party was the aggressor party and they had assaulted the applicant while he had gone to take meals in Chinese Hotel at 11.30 p.m. in village Uchagaon-Gudmudshingi. The applicant has also lodged complaint against the complainant party in that behalf. The version of the applicant is supported by the injury certificate produced on record, which clearly establishes that the applicant suffered incised wounds due to the assault by the sharp edged weapon,namely, sword. On the other hand, the injuries suffered by the complainant party are only contusions lacerated wounds caused by the hard and blunt object. It is interesting to note that although, the applicant has suffered incised wounds by sharp edged weapon, the offence registered against the complainant party is one of simple injury and not grievous injury. On that count, they have already been released on bail. In my opinion, there is substance in the stand taken on behalf of the applicant that the complainant party was in fact the aggressor party and caused grievous injury to the applicant during the assault. Understood thus, the fact that there is already pending case against the applicant, will make no difference if the applicant’s version is accepted for the time being as

correct. Accordingly, the applicant deserves to be enlarged on bail on the following conditions :-

(a) The Applicant is enlarged on bail in connection with C.R.No. 39/2004, registered with Gandhi Nagar Police Station on executing personal bond in the sum of Rs. 25,000/- (Rs. Twenty-five thousand only) with two local sureties in the like amount.

(b) The applicant shall report to the concerned police station once in a month, on first Saturday of every English calendar month between 10 a.m.to 2 p.m..

(c) The Applicant shall extend full co-operation to the investigating officer as and when called upon as well as for early disposal of the trial. If the trial court is of the opinion that he is responsible for delay in trial that fact be recorded in the Rozanama, which can be a ground for cancellation of bail.

(d) The applicant shall not influence the prosecution witness or tamper with the prosecution evidence in any manner whatsoever.

3. Ordered accordingly.

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